



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

MAR - 4 2005

400 Seventh Street, S. W.
Washington, D.C. 20590

Ms. Rebecca L. Cernick
Manager Regulatory Compliance
Distribution Safety Services
Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, PA 15205-9741

Ref. No.: 05-0015

Dear Ms. Cernick:

This is in response to your January 14, 2005 letter and subsequent telephone conversation with Arthur Pollack of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask if your company (Bayer MaterialScience) is responsible for providing closure notification to customers who return empty Intermediate Bulk Containers (IBCs) that contain hazardous material residue and are owned by, and being returned to, your company.

The answer is yes. Under § 178.2(c)(1), each person to whom a packaging is transferred must be notified of all requirements not met at the time of transfer and must receive written closure instructions. It is the responsibility of the manufacturer or other person certifying compliance with Part 178, and each subsequent distributor of the packaging, to provide the notification. In the scenario described in your letter, Bayer MaterialScience provides its customers with the IBCs and therefore must provide the written notification required under § 178.2(c)(1).

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



050015



Bayer MaterialScience

Pollack
\$173.29
\$178.2(c)
Empty
05-0015

Mr. Edward Mazzullo
Director, Office of Hazardous Materials Standards
U.S. Department of Transportation
Research and Special Programs Administration (DHM10)
400 7th Street, SW
Washington, DC 20590-0001

Request for Interpretation 49CFR 173.29 and 178.2(c)

January 14, 2005

Dear Mr. Mazzullo:

This letter is a written request for guidance from DOT in regards to return of empty packagings that contain a residue of hazardous materials.

Bayer MaterialScience LLC
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We sell hazardous materials to our customers in returnable intermediate bulk containers (IBC's). Once the customer has removed the material, the customer arranges to have the IBC's returned to us. The IBC's contain a residue of hazardous materials and are offered for transportation and transported in accordance with 49CFR 173.29. The customer is responsible for ensuring that the IBC's have been properly closed and that the marks and placards remain.

Our questions are these: who is responsible for providing the closure instructions to our customer for return of the IBC's? Since Bayer MaterialScience is not a manufacturer, certifier of hazardous materials packaging, or a distributor of packaging, how does the notification requirement in 49CFR178.2(c) apply and to whom does it apply?

Thank you for your assistance. A written response to our questions would be most appreciated.

Yours Sincerely,

Rebecca L. Cernick
Manager – Regulatory Compliance
Distribution Safety Services